Supreme Court, U.S.
FILED
JUN 3 1976
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

October Term, 1975.

Docket # 75-1608

Docketed 5-4-76

R. FISKE WHITNEY,

Petitioner,

v.

VIRGINIA BRANN and HERBERT BRANN,

Respondents.

Supplementary Petition for Writ of Certiorari to the United States Court of Appeals for the Third Circuit

R. FISKE WHITNEY
Petitioner Pro Se
414 East 75th Street
New York, N. Y. 10021
(212) 879-3500

BLEED

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Supplementary Petition for Writ of Certiorari to the United States Court of Appeals for the Third Circuit.

Petitioner's request to the Clerk of the U.S. Court of Appeals Third Circuit for certification and transmittal of that court's order granting petitioner's "Motion to Strike Certain Items From Record on Appeal and Three Affidavits" elicited research of that court's records and has just elicited the report that the Clerk's office has no record of any action being taken on that timely-made motion which had been joined in as per paper in appendix attached, by opposing counsel. Petitioner had been advised, over the telephone, by the clerk's office that the motion had been granted.

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It would appear therefore that either the Court of Appeals failed to properly limit the evidence considered in accordance with the proper motion of all parties or that if the motion was approved by other than all finally participating justices, that court had a file and dockets inaccurately portraying the record on which a decision was to be made.

In either alternative the decision of the U.S. Court of Appeals, Third Circuit was defective. At the very least, a reconsideration should be ordered on this count alone.

This is but a trifling instance of the consistently improper acts against petitioner in both of the lower courts, which prove that petitioner's writ of certiorari should be granted.

Dated: Gainesville, Florida
June 1, 1976

Respectfully submitted,

R. FISKE WHITNEY,
Petitioner *Pro Se*,
414 East 75th Street
New York, N.Y. 10021
(212) 879-3500

APPENDIX.

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

R. FISKE WHITNEY,

Appellant,

v. Civil Action No. 75-1731

VIRGINIA BRANN and HERBERT BRANN,

Appellees.

MOTION TO STRIKE

The Appellees hereby join in the Appellant's Motion to Strike all affidavits, correspondence and other matters not made part of the record below, including all arguments in the briefs of counsel referring to the materials not in the record.

Richard W. Pell

RICHARD W. PELL
Attorney for the Appellees
1110 Bank of Delaware Bldg.
300 Delaware Avenue
Wilmington, Delaware 19801

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AFFIDAVIT OF SERVICE

STATE OF FLORIDA:
COUNTY OF ALACHUA: S.S.

R. Fiske Whitney, being duly sworn, deposes and says that on June 1, 1976 he served on Richard W. Pell Esq. P.O. Box 2092 Wilmington, Delaware 19899 three (3) copies of the attached Supplementary Petition and Appendix by mailing them in Gainesville, Florida post office, air mail to Richard W. Pell at the above address in a prepaid wrapper. All parties required to be served have been served.

R. FISKE WHITNEY

SWORN TO BEFORE ME THIS 1ST DAY OF JUNE 1976

NOTARY PUBLIC